

**Written Testimony of Alice D. Parker, Ed.D.
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Before the President's Commission on Excellence in Special Education**

Chairman Branstad, Commission Members, Assistant Secretary Pasternack, and Executive Director Jones, I want to thank you for the opportunity to speak to you today. I am Alice Parker. I am an Assistant Superintendent of Public Instruction and the State Director of Special Education for the State of California. I am pleased that we have this opportunity to share some of our successes and some of our challenges as we seek to provide services to children with disabilities and their families.

I have been asked here today to talk about our experiences with the Office of Special Education Program (OSEP) and to offer any suggestions we may have to improve how we all work together so the children with disabilities and their families have benefit of the best that we have to offer. Specifically, I want to share with you our experiences with monitoring and communication about compliance issues, including the effectiveness of special conditions. And I want to make recommendations about changes needed to clarify expectations, provide technical assistance, and achieve results.

Let me share up front that, because of special conditions placed on our IDEA grants, we have had a very "close" working relationship with OSEP and OSEP staff over the last couple of years. I find their staff to be committed, professional, and caring. I think that their knowledge of IDEA requirements and their personal integrity is beyond reproach. Any suggestions we may have to make are clearly intended to focus on the organization and not on any of the individuals in the organization.

I came to the California Department of Education from the San Mateo-Foster City Elementary School District in November 1997. At that time, California:

- Had More than 1100 LEAs
- Was serving 640,000 students with disabilities
- Used a monitoring system based on procedural compliance
- Had decreasing number of staff, only 16 doing onsite monitoring
- Had no data to answer the question, "How effective is special education in California?"

With the advent of IDEA '97 it was very clear we needed to have a major shift in direction from a system that focused solely on the procedural elements of IDEA to a system that placed emphasis on access to, and progress in the general education curriculum. (My staff used to roll their eyes when I talked about putting the "E" back in IDEA - they don't roll their eyes anymore).

We instituted a number of changes. First, we convened a group of stakeholders and we

established clearer goals and indicators. Next we took stock of the data we already had on hand to identify districts most in need of our attention and assistance. Then we reengineered the methods we were employing to work with districts (to assess district compliance with procedural guarantees, to assess success in reaching statewide goals, and to provide guidance, training and technical assistance). Lastly, we implemented a new Quality Assurance Process - a process we believed that was data informed, that integrated all of our monitoring efforts under one umbrella (including local policy and procedure review, complaints/due process, monitoring reviews, review of student level and district data), and focused our technical assistance and enforcement efforts.

In this process, we gave particular attention to our onsite monitoring and technical assistance. One thing that had become clear to us was that the old way of doing business was not working. It seems kind of silly to say this out loud, but if you want other people to pay attention to outcomes for children with disabilities, then you have pay attention to outcomes for children with disabilities. And we found that we were only paying attention to procedural guarantees. Our analysis of IDEA '97 (and the Rowley Decision for that matter) was that it called for a more balanced approach to ensuring both procedural guarantees and educational benefits for children. In addition to the types of onsite and self review processes that most states use, we instituted a pilot project to focus on those districts whose key performance indicators were in the lowest 15% of districts of similar size and type (unified, elementary or high school districts). In this process (which also included a review and correction of procedural guarantees), district teams including both regular and special education staff and parents went through a process to examine their data, explore their practices and implement changes focused on priority performance areas. Through our State Implementation Grant (and the generosity of the Schwab Foundation) we were also identifying and assembling districts with exemplary practices. These two groups have been joined through biannual conferences into a kind of ongoing technical assistance group that has produced tremendous gains for all of the districts in both procedural guarantees and educational outcomes.

We have found that it is crucial that all of the components are aligned – monitoring, technical assistance, training, the State Implementation Grant – and that all of the stakeholders, including parents, are clear on the alignment.

Our efforts have resulted in several statewide improvements:

- The number of overdue annual IEP review and 3 year reevaluations has declined dramatically, dropping by 65% and 68% respectively
- The percent of overdue annual IEP review and 3 year reevaluations has declined dramatically, dropping by 8.4 and 4.6 percent respectively
- The percent of students scoring at or above the 50th percentile in math has increased steadily each year for both GE and SE students. The gap between the two groups has decreased only 1 point.
- The percent of students scoring at or above the 50th percentile has increased steadily each year for both GE and SE students. The gap between the two groups has decreased by four points.

- The percent of students receiving Special Education and educated with their nondisabled peers 80% or more of the time has increased steadily.

National Data strengthens these findings:

- In the last ten years, California's special education population has grown faster than the national average
- California has reduced the number of students served in separate facilities and has increased the number of students who spend more time in regular classrooms.
- California has the largest special education caseloads of any of the large states in the country.
- Despite the huge class sizes and the elimination of differential standards, California has made dramatic increases in the percent of students with disabilities graduating with a diploma.
- And, California has reduced the drop out rate of students with disabilities by almost one third since 1993-94 – almost half of the rate of the U.S. as a whole.

Now, you might be thinking, she has lost her marbles - she is off the topic - she is only tooting her own horn. But here is the point. In order for OSEP to complete the change in its focus and oversight approach to a more results based focus- it may have to (as my friend Bill East puts it) "just get on with it" and let some of the old stuff go. Let me be more specific.

Georgianne Knight of my staff prepared a chart which each of you has that depicts general supervision events of the last several years. You can see that it is rich with the whitewater of change. As you can also see we have been working on corrective action plans for many years (as far back as 1992). We have had special conditions on our Part B grants for the last three years. We have had a State Implementation Grant since 1999. Staff of OSEP has spent a week or so in our offices and in local school districts throughout our state - one to three times per year for the last several years. And we have prepared two to four reports of substantial length on our activities and the activities of 10 to 25 school districts each year.

...for each of the findings that CDE makes (in reviews of 22 specific school districts) a detailed summary of any and all prior finding(s) that CDE made in 1997-98, 1998-99 or 1999-2000...the required corrective actions (both current and prior); the current status of the corrective action(s) and of compliance, including whether children are receiving needed services and any evidence from parents that needed correction has occurred; and the specific additional actions that CDE has taken or will take , such as follow-up data collection, technical assistance and sanctions to secure compliance/correction, and the date on which CDE took or by which CDE will take such action... Special Conditions 1999-00

OSEP's involvement in California has met with mixed reviews. Interaction with OSEP staff, OSEP technical assistance materials and OSEP sponsored technical assistance events have been lauded. The overall result of their efforts, however are seen as focusing our attention back on the nonsubstantial, procedural details of compliance and not a balance of procedural guarantees and educational results. In thinking about this, I think there are several things that have contributed to this:

Emphasis on procedural details. Our special conditions included the requirement that each of

the monitoring processes in the QAP be "comprehensive." One of the US DOE attorneys on their review team left us with his analysis of our review documents. Though he had not had time to complete his entire review he had found that there were a number of "holes" in our material. The message that was communicated was that they expected to find review items related to every item in their review document. My staff spent a month reviewing their document and recrafting our item table so that it now includes the 815 lines Secretary Paige vilified in testimony to Congress. Lest you think that we misunderstood. In the next year, there was again the assertion that our review materials were not comprehensive. OSEP staff could not tell us what was missing, as they not had time to complete their review. The message again, however, was that they wanted to see everything included.

Key terms are difficult to clarify. Each year we have sought to clarify what was meant by certain key terms like "substantial," "comprehensive," "valid," and "reliable." We have been asked to focus on things that have a "substantial" impact on services to the child. We have not received clarification. Interpretation has varied over time – so that we have been left feeling that correction (and the continuation of special conditions) is a moving target.

y June 1, 2001, CDE will demonstrate that it has revised each of the components of its integrated monitoring system (QAP)(i.e., CCR/self-review, focused monitoring including verification reviews, local plan review, and complaint management), so that they are effective in promptly, accurately, and comprehensively identifying and correcting noncompliance. Special Conditions 1999-2000

Big issues are viewed as systemic problems in all districts. During one year we were asked to report quarterly on service data from 22 districts (including very large districts like Los Angeles, San Diego, and San Francisco) and to turn that data around in 5 days. Among the items requested was the number of students with IEPs who needed counseling services but who did not have it on their IEP. It's kind of like asking the question, "Would everyone who is not here, please stand up?" What OSEP had found (which was very troubling indeed) was that there were a number of children who were counted in the category of emotional disturbance who were not identified as needing counseling services. What would have been more to the point and more useful to everyone, would have been to ask districts to track the number of children identified as having emotional disturbance who had, and who did not have counseling services on their IEP and to ask districts to account for the discrepancy. This would have helped us and the district to focus on the issue at hand and to fix any problems that may result from that examination.

Let us complete one thing before we get involved in another. As you may know, OSEP is involving the last group of states in their change to the Continuous Improvement Monitoring Process (CIMP). CIMP is theoretically a sound, positive systems change effort which should be a focused, state-generated process to target areas we already know need improvement. In California, we have been fortunate because the elements of the CIMP process have been in place for several years and we have used them, we believe, to good effect. However, last spring we were informed that we had been selected to be involved in the CIMP process, which, to us, signaled an additional effort by staff to embark on a second OSEP generated monitoring process while we were still being monitored for special conditions. I believe OSEP needed to make a choice at that point to either commit to the new process by saying - "we believe that a

stakeholder analysis of IDEA implementation in California will identify the same issues we have unearthed and it is time for us to move them on" or to say, "California is still in a compliance hole and we need to complete our work, before we transition them to CIMP." They did neither. And, as a result, we declined to participate in a second self-review process.

These kinds of things get in the way of OSEP being able to achieve a more state generated system of supervision and monitoring. I believe we have been earnest in our efforts to address the special conditions and to achieve the outcomes identified by OSEP. We have been earnest because we believe that procedural guarantees are very important. We also believe that it is time to balance attention to procedural guarantees with an increased emphasis on outcomes. In talking with district administrators, my staff and with my colleagues from around the country I think that there are a number of things you can do to support OSEP in making the appropriate changes:

Clarify the purposes of IDEA. Clarify that the overall purposes of IDEA are both protection of rights AND improving outcomes (it's not an either/or choice, politically or morally - we still need both). Right now, however, the statute, strangled by regulations and litigation, is almost entirely focused on procedure and that won't change as long as the level of prescription for every step of the initial referral, eligibility, evaluation, IEP, etc., remains in the statute.

Increase emphasis on educational issues and access to effective instruction. With the emphasis on procedural compliance, OSEP has appeared to de-emphasize the importance of appropriate and effective instruction. OSEP needs to increase their emphasis and knowledge on pedagogy and research based instructional practices. OSEP needs to disengage the Office of General Council from the process so that educators can talk with other educators.

Decrease procedural prescription. Decrease procedural prescription and increase a focus on ensuring that (1) parents receive notice of substantive actions (IEP, placement, eligibility or refusal); (2) parents know they have a right to participate in those decisions and to disagree with something substantive in the action; and (3) parents know how and act to exercise their rights

Reconceptualize data collection and analysis. In order to support increased emphasis on outcomes, data collection needs to focus less on standardizing data from states for the purpose of cross-state comparisons and more on making data useful to states in guiding and assessing the effectiveness of their own improvement efforts. Congress and OSEP need to reconsider all the data reporting in light of what the purpose is. Separate the need for national level, comparative data (a good role for research, NCES, etc.) and the need for data to ensure that state systems work to improve outcomes and protect rights.

Ensure that all children are included in the accountability system. Require that state general education data systems ensure that the entire population of students served in special education can be identified for purposes of accountability and governance. Acknowledge that some children have different learning needs and different ways are needed to assess them --

ways to measure learning growth when the program is not the single "high academic content and performance standards" curriculum that applies to all of children (alignment with NCLB).

Support OSEP to get on with their results oriented oversight processes and research informed technical assistance. If "rights protection" is simplified and aimed more at showing a substantive loss (substantive disagreement and why), rather than a technical procedural violation, OSEP will have more of an opportunity to focus on outcomes. The "outcomes" focus should be on ensuring that states use information on the performance of every child (a truly complete accountability system) to guide and evaluate the effectiveness of their governance and improvement efforts. Improvement at the state level is integral to the OSEP governance role - part of what it is to help ensure states do. At a federal level and for purposes of uniformity, comparisons, etc., OSEP should focus on valid and reliable research to look at the kinds of results issues the field (and the public, and the administration) is interested in. That is, follow-up/follow-along longitudinal studies, disproportionality fixes that actually improve learning for the effected students, graduation, and dropout rates. State comparisons on these kinds of measures should be taken systematically across states, not based on state reported data using different and sometime vary disparate methods. We hold states responsible for governing programs in the state, so we need to fund governance and improvement in noncompetitive ways and with clarity.

Support OSEP to model interagency collaboration. It is time for the US DOE to behave in ways that demonstrate the kind of collaboration that is expected of states and school districts. In addition to having discussions that will integrate and streamline submission of plans, fiscal information and reports; planning and using a singular and integrated database would be a tremendous leap forward. As it stands now, for example, OSEP and OCR each report drop out rates for states, but use different data sets to do so.

Support OSEP to distribute funds in a more effective fashion. All states need to receive State Implementation Grants. State level improvement funds need to meet appropriate standards (e.g., be tied to a researched need), but need to be available for states to apply to those areas and those issues that will have the most effect. Similarly, CSPD funds need to be consolidated so states can direct resources in the most beneficial fashion.

Support states to have sufficient resource capacity to undertake the governance job expected. States lack, in many cases, the resource capacity to do the governance job expected, in part because Congress has limited administration as a function and in part because state legislatures can (and do) allocate resources to a local level for politically expedient reasons that are crucial to doing the state and regional level work needed to train, govern, etc. States need targeted money at the state level to carry out their role. The discretion that states (legislatures) have to direct money to local levels hampers state agencies in exercising their responsibilities. The differences among states in their capacity to support local improvement is, as a result, huge. Assign a realistic level of money to the state for administration and then allow some discretion in how the systems are set up (centralized, regional, even some structural connection

down to local levels if a state wants, but not "pass the money to the local building and let them figure out what to do with it").

In closing, I am reminded of the story about the doctor, the architect and the policy maker who were all arguing about which of their professions was the world's oldest profession. The doctor was emphatic that medicine was the oldest profession, "Because," he said, "if you look in the book of Genesis you would see that God took a rib out of Adam and created Eve. So, clearly, medicine is the oldest profession." "Well," the architect said, condescendingly, "by your very reference, if you look in the book of Genesis you will see that God created heaven and earth out of chaos in 6 days. So it would seem that architecture is clearly older." The policy maker just smiled and said, "Who do you think created the chaos?"

Sometimes, I think that we have done more harm than good - created a little more chaos than clarity – and forgotten the essence of why we are here – children, in particular children with disabilities and their families – and improving their opportunities in life. Thank you again for the opportunity to share with you this morning.